

Senate Government Operations Committee Amd.

Amendment No. 1 to SB0041

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AMEND Senate Bill No. 41*

House Bill No. 1617

By deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 34, Part 1, is amended by deleting such Part in its entirety and by substituting instead Sections 2 through 12 as new Part 1.

SECTION 2.

(a) There is hereby created and established the Tennessee commission of Indian affairs.

(b) The commission shall be attached to the department of environment and conservation for administrative purposes only.

SECTION 3. The purposes of the commission are to:

(1) Deal fairly and effectively with Indian affairs;

(2) Bring local, state and federal resources into focus for the implementation or continuation of meaningful programs for Indian citizens of the state of Tennessee;

(3) Provide aid and protection for Indians as needs are demonstrated;

(4) Prevent undue hardships;

(5) Assist Indian communities in social and economic development;

(6) Promote recognition of, and the right of Indians to pursue cultural and religious traditions considered by them to be sacred and meaningful to Native Americans; and

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(7) Communicate with Tennessee's Indian communities and solicit communications from such Indian communities.

SECTION 4. It is the duty of the commission to:

(1) Study, consider, accumulate, compile, assemble and disseminate information on any aspect of Indian affairs;

(2) Investigate relief needs of Indians of Tennessee and to provide technical assistance in the preparation of plans for the alleviation of such needs;

(3) Confer with appropriate officials of local, state and federal governments and agencies of these governments, and with such congressional committees that may be concerned with Indian affairs;

(4) Encourage and implement coordination of applicable resources to meet the needs of Indians in Tennessee;

(5) Cooperate with and secure the assistance of the local, state and federal governments or any agencies thereof in formulating any such programs;

(6) Coordinate such programs with any programs regarding Indian affairs adopted or planned by the federal government to the end that the commission secure the full benefit of such programs;

(7) Review all proposed or pending state legislation and amendments to existing state legislation affecting Indians in Tennessee;

(8) Conduct public hearings on matters relating to Indian affairs and to subpoena any information or documents deemed necessary by the commission;

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(9) Study the existing status of recognition of all Indian groups, tribes and communities presently existing in the state of Tennessee; and

(10) Establish appropriate procedures to provide for legal recognition by the state of presently unrecognized groups and to provide for official state recognition by the commission of such groups.

SECTION 5.

(a) The Tennessee commission of Indian affairs shall consist of seven (7) members as follows:

(1) One (1) member from each of the four (4) regions described in subsection (h); and

(2) One (1) member from each of the three (3) grand divisions of the state.

(b) The Tennessee Native American Convention shall prepare a list of four (4) nominees for each position as a member on the commission. Each list of nominees shall include biographical information on the nominees, tribal affiliation, if applicable, and a statement of each nominee's experience and involvement in Native American affairs.

(c) The Tennessee Native American Convention shall submit to the speaker of the house and the speaker of the senate a list of nominees pursuant to subsection (b) for each vacancy, including initial vacancies, on the commission. The speakers shall jointly appoint a member to the commission from each list of nominees.

(d) Members shall serve for three-year terms, except for the initial appointments. Three (3) of the members appointed initially shall serve for one (1) year; two (2) of the

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members appointed initially shall serve terms for two (2) years; and two (2) of the members appointed initially shall serve terms of three (3) years. Upon expiration of a member's term such member shall continue to serve until a successor member is appointed.

(e) Any member appointed to fill a vacancy shall be appointed for the remainder of the term of the member causing the vacancy.

(f) The members of the commission shall elect a chair, a vice chair, and a secretary from its members. Officers shall serve terms of one (1) year.

(g) Commission members shall not receive per diem but shall be compensated for their actual travel expenses in accordance with the comprehensive state travel regulations as promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(h)

(1) Region 1 shall consist of the following counties:

Anderson; Blount; Campbell; Carter; Claiborne; Cocke; Grainger; Greene; Hamblen; Hancock; Hawkins; Jefferson; Johnson; Knox; Loudon; Monroe; Morgan; Roane; Scott; Sevier; Sullivan; Unicoi; Union; and Washington.

(2) Region 2 shall consist of the following counties:

Bledsoe; Bradley; Cannon; Clay; Coffee; Cumberland; Dekalb; Fentress; Franklin; Grundy; Hamilton; Jackson; McMinn; Marion; Meigs; Overton; Pickett; Polk; Putnam; Rhea; Sequatchie; Van Buren; Warren; and White.

(3) Region 3 shall consist of the following counties:

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Bedford; Cheatham; Davidson; Dickson; Giles; Hickman; Houston; Humphreys;
Lawrence; Lewis; Lincoln; Macon; Marshall; Maury; Montgomery; Moore; Perry;
Robertson; Rutherford; Smith; Stewart; Sumner; Trousdale; Wayne; Williamson;
and Wilson.

(4) Region 4 shall consist of the following counties:

Benton; Carroll; Chester; Crockett; Decatur; Dyer; Fayette; Gibson; Hardeman;
Hardin; Haywood; Henderson; Henry; Lake; Lauderdale; Madison; McNairy;
Obion; Shelby; Tipton; and Weakley.

SECTION 6.

(a) Commission meetings shall be held on Saturdays. The locations of
commission meetings shall rotate among the cities of Memphis, Nashville, Chattanooga
and Knoxville.

(b) Prior to a commission meeting, at least ten (10) days' notice shall be given in
writing to all Native American organizations in Tennessee that have requested such
notification. Notice shall be given by mail and by e-mail, if available. The commission
shall also place notice of its meeting times and places on the website of the Tennessee
commission of Indian affairs.

(c) The minutes of all commission meetings shall be placed on the website of the
Tennessee commission of Indian affairs within thirty (30) days of their approval. Minutes
of all prior commission meetings shall be accessible on the commission's website.

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(d) Annual reports of the commission shall be placed on the website of the Tennessee commission of Indian affairs within forty-five (45) days of their approval. All prior annual reports shall be accessible on the commission's website.

(e) Four (4) commissioners shall constitute a quorum for the conducting of business of the commission.

(f) Agendas for commission meetings shall be delivered to each member of the commission at least one (1) week prior to the commission meeting.

(g) Minutes of all commission meetings shall be mailed to all commission members.

(h) Roberts' Rules of Order shall govern meetings of the commission when not in conflict with specific bylaws or other rules as may be adopted by the board.

(i) The term of any member who misses two (2) consecutive meetings of the commission without good cause may be terminated by a majority vote of the remaining members of the commission.

(j) Commission meetings shall include opportunities for public comments. Commission meetings shall not be adjourned until members of the public attending such meeting have had an opportunity to address the commission. Comments made by members of the public attending such meetings shall be entered into the minutes of the commission.

(k) The chair shall appoint three (3) members of the commission to establish a rules committee. The rules committee shall develop procedural and operating rules for

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the commission. The commission shall approve of all proposed rules by a majority vote before such rules take effect.

SECTION 7. No member or employee of the Tennessee commission on Indian affairs shall, in such person's capacity as a member or employee of the commission, enter into any litigation without the approval of the commission by a majority vote of the commission. Such approval shall be part of the minutes of the meeting in which such approval is granted. Nothing in this act shall prohibit a member or employee of the commission from entering into any litigation in such person's individual capacity.

SECTION 8.

(a) Fiscal records shall be kept by the commissioner of environment and conservation and will be subject to audit as authorized by § 8-4-109 or a certified public accountant.

(b) The audit report will become a part of the annual report and will be submitted in accordance with the regulations governing preparation and submission of the annual report.

SECTION 9.

(a) The commission may, subject to legislative or other funds that would accrue to the commission, employ an executive director to carry out the day-to-day responsibilities and business of the commission. The executive director is subject to dismissal by a majority vote of the commission.

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(b) The executive director, also subject to legislative or other funds that would accrue to the commission, may hire additional staff and consultants to assist in the discharge of the executive director's responsibilities, as determined by the commission.

(c) The executive director shall not be a member of the commission.

SECTION 10. There is hereby created a Tennessee Native American convention. The convention shall select persons to be presented to the speaker of the senate and the speaker of the house as nominees to the commission. The convention shall also collate and prioritize the issues, goals and objectives of greatest significance to Native Americans in Tennessee.

SECTION 11.

(a) The convention shall be held biennially on the Saturday immediately preceding American Indian Day as set out in Section 15-2-106.

(b) The convention shall, whenever practicable, take place outdoors at a historical Native American site.

(c) The convention shall rotate between the three (3) grand divisions of the state.

(d) The convention shall select initially four (4) groups of four (4) nominees from each region as described in Section 5(h) of this act.

(e) The convention shall select initially three (3) groups of four (4) nominees from each grand division of the state.

(f) After initial nominees for the commission have been chosen, nominees shall be chosen as necessary for vacancies occurring on the commission.

SECTION 12. Delegates to the Tennessee Native American convention shall be elected at seven (7) regional caucuses to be held in each region as described in Section 5(h) of this act

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and in each grand division of the state. Regional caucuses shall be held not less than two (2) weeks before the convention. Each regional caucus shall nominate not less than ten (10) nor more than fifteen (15) candidates to the convention. Each caucus shall set the time and location of the subsequent caucus for such region. Members of the convention shall elect a chair, vice chair and secretary for such convention. Members of the convention shall not receive compensation for their service on the convention.

SECTION 13.

(a) Tennessee Code Annotated, Section 4-29-222(a), is amended by deleting item (9) in its entirety.

(b) Tennessee Code Annotated, Section 4-29-226(a), is amended by adding a new item thereto, as follows:

() Commission of Indian affairs, created by Section 4-34-101;

SECTION 14.

(a) All programs administered by the existing Tennessee commission on Indian affairs prior to the effective date of this act shall be transferred to and, administered by, the Tennessee commission on Indian affairs created by this act.

(b) All staff, staff positions, offices, equipment, supplies, property, facilities, funds and other resources of any program under the existing Tennessee commission on Indian affairs shall be transferred to the Tennessee commission on Indian affairs created by this act.

(c)

(1) All contracts and leases entered into by the existing Tennessee commission on Indian affairs with any entity, corporation, agency, enterprise, association or person,

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prior to the effective date of this act, shall continue in full force and effect as to all provisions in accordance with the terms and conditions of such contracts or leases in existence on the effective date of this act, to the same extent as if such contracts or leases had originally been entered into by and between such entity, corporation, agency, enterprise, association or person and the Tennessee commission on Indian affairs created by this act, unless and until such contracts or leases expire or are duly amended, modified or terminated by the parties thereto.

(2) The provisions of subdivision (c)(1) shall not be implemented in any manner that violates the prohibition against the impairment of contract obligations as contained in the Constitution of Tennessee, art. 1, § 20.

(3) All rules, regulations, policies, orders and decisions promulgated or issued by Tennessee commission on Indian affairs prior to, and in effect on the effective date of this act shall remain in force and effect and shall be administered and enforced by the Tennessee commission on Indian affairs created by this act until duly amended, repealed, expired, modified or superseded.

(4) On the effective date of this act, all references to the existing Tennessee commission on Indian affairs contained in any forms, legal documents, notices and papers of any kind in the possession of or issued by the existing Tennessee commission on Indian affairs shall be deemed references to the Tennessee commission on Indian affairs created by this act, and any actions thereon may be brought or maintained in the name of the Tennessee commission on Indian affairs created by this act as the

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successor in interest and shall receive the same force and effect as if brought in the name of the predecessor commission.

(e) The transfer of the functions and activities of the existing Tennessee commission on Indian affairs to the Tennessee commission on Indian affairs created by this act shall not, because of the transfer, result in any impairment, interruption, or diminution of the regulatory rights and privileges of the Tennessee commission on Indian affairs.

SECTION 15. On and after the effective date of this act, Tennessee commission on Indian affairs created by this act, through its executive director, has the authority to receive, administer, allocate, disburse and supervise any grants and funds from whatever sources, including, but not limited to, the federal, state, county and municipal governments on a state, regional, county or any other basis, with respect to any programs and/or responsibilities outlined in this part or assigned to the commission by law, regulation or order.

SECTION 16. Notwithstanding the provisions of Section (9)(c), the executive director of the Tennessee commission on Indian affairs shall remain in office until a majority of commissioners to which the board is entitled chooses a different executive director.

SECTION 17. The Tennessee commission on Indian affairs created by this act has the authority, consistent with the statutes and regulations pertaining to the programs and functions transferred herein, to modify or rescind orders, rules and regulations, decisions or policies heretofore issued and to adopt, issue or promulgate new orders, rules and regulations, decisions or policies as may be necessary for the administration of the programs or functions herein transferred.

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SECTION 18. Sections 10 through 12 of this act, inclusive, shall take effect upon becoming a law, the public welfare requiring it. All other sections of this act shall take effect January 1, 2002, the public welfare requiring it.